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 nts you want to give
 Christmas. What
 be more suitable
 enible present and
 to select from, and
 you some of them.

Men's Shoes
 has always been
 our strong point.
 We have a larger
 and better selected
 stock than any
 other house in
 Houston, and at
 the right prices.
 We have them at
 from \$1.25 to
 \$7.50 a pair, in
 a variety of toes
 and leathers.

In our \$3.50 and \$5.00 grades
 some, stylish shoes at these prices.

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have some extra good Bargains on
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 Button shoes, 75c, 98c and \$1.25

..1103..
Congress Ave.
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judgment as rendered by the court of
 nimal appeals of the State of Texas.
 T. S. Smith,
 Attorney General.
 D. E. Simmons,
 Office Assistant Attorney General.
 For Defendant in Error.

Lockhart Locals.
 Lockhart, Texas, December 15. — The
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Achenbach & Schulte ..1103..
Congress
Ave.
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count of his race or color." This principle has not been heretofore passed by this court, and as the duty of selecting and summoning jurors is devolved on merely ministerial officers, we must assume that in performing their duty they obeyed the statute as enacted by the legislature, and that they excluded colored persons from the jury because the statute declared them to be incompetent, and consequently that the appeal was deprived by the statute of a trial at which the supreme court holds inured to him by the constitution.

The grand jury who indicted Bush was composed of jurymen appointed before the decision above quoted. This being the case, it made no pretence that it was not shown, by a bill of exceptions or otherwise, that any proof was offered in support of the motion to quash the indictment. It is a question of law, not one of fact as the court says: "We are of opinion that the rule announced by the court of appeals in Commonwealth vs. Johnson is consistent with sound reason and justice, and it is incumbent thereon—the absence of any evidence that the selection of grand jurors, in May, 1889, was in fact made without discrimination against colored citizens because of their race, should be sustained. The district commissioner then appointed followed the rules of Kentucky so far as they related to the selections of grand jurors to exclude of the white race."

Thus it will be seen from the decisions of this court, as well as State courts, that some importance is attached to the selection of public officers who follow the law in the performance of their official duties. This as it should be. Especially, we think, ought this to be the rule with reference to our judiciary. It is unnecessary to consider the question as to whether or not the trial court erred in overruling the motion to quash the panel of petit jurors. The trial court may have viewed the motion as did the court of criminal appeals viz., that it came too late to be considered, because an official error had been examined the venire on voir dire and had passed on each in the box as to his bias or prejudice in the particular case, and had accepted twelve good and lawful men to pass upon his case. We will not discuss this phase of the case for the reason that the motion to quash the indictment should have been sustained by the trial court. It would have to be sustained, because in the opinion of this court, the jury commissioners discriminated against petit jurors in the selection of grand jurors. If this were true, the case was discriminated against in the selection also of petit jurors who tried him. If not for the reason just given, then because the bill of exceptions contains the statement that the trial court refused to hear any proof on the question.

It is not to be thought that this disclosure of error to require a reversal of the case. It would apply to one motion as well as the other.

It is not claimed by plaintiff in error that he was not legally tried by a jury of twelve fair and impartial men. The jury was selected by the record, the panel assessed, and each juror was duly sworn, such as one as merits the punishment assessed, and we therefore, respectfully ask that this honorable court affirm the judgment as rendered by the court of criminal appeals of the State of Texas.

Attorney General
D. E. Simmons,
Office Assistant Attorney General
For Defendant in Error.

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